

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-5, 12-14, 50, 52, 56-57, 64-65, 73-74, 82, 84, 86, 88-91 and 102-117 are presently active in this case. The present Amendment amends Claims 1, 4-5, 12, 56-57, 64-65, 73, 82, 84, 86, 88 and 90; cancels Claims 6-11, 15-49, 51, 53-55, 58-63, 66-72, 75-81, 83, 85, 87 and 92-101 and adds Claims 102-117. Attached herewith is a Replacement Sheet to replace Figure 5 previously amended.

In the outstanding Office Action, the restriction requirement was made final and Claims 6-11, 15-49, 51, 53-55, 58-63, 66-72, 75-81, 83, 85, 87 and 92-101 were withdrawn from consideration. Claims 1, 3, 4, 12, 14, 50, 52, 73, 82 and 84 were rejected under 35 U.S.C. § 102(e) as being anticipated by Abo et al. (U.S. Patent No. 5,948,041). Claims 2, 5, 13, 74, 86 and 88-91 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Abo et al. (U.S. Patent No. 5,948,041).

However, Claims 56, 57, 64, and 65 were indicated as allowable if rewritten in independent form. Applicant acknowledges with appreciation the indication of allowable subject matter. In response, Claims 56, 57, 64, and 65 are rewritten in independent form. Claim 65 now recites the features of original Claim 4, instead of Claim 15 (which was withdrawn from consideration).

In response to the Restriction Requirement being made final, Claims 6-11, 15-49, 51, 53-55, 58-63, 66-72, 75-81, 83, 85, 87, and 92-101, directed to non-elected inventions, are canceled. Applicants reserve the right to present claims directed to the non-elected

inventions in a divisional application, which shall be subject to the third sentence of 35 U.S.C. § 121.¹

In order to clarify Applicant's invention, independent Claims 1, 4, 5, 12, 73, 82, 84, 86, 88 and 90 are amended to specify that the captured information includes *at least time information*. These changes find support in the disclosure as originally filed, for example at page 17, lines 21-24 and at page 18, lines 2-6. In order to vary the scope of protection recited in the claims, new dependent Claims 102-117 are added. The new claims recite features disclosed in the disclosure as originally filed, for example at page 13, lines 10-11; at page 14, lines 11-16; at pages 15-16; and Fig. 1. Therefore, the present amendment is not believed to raise a question of new matter.²

In light of the above amendments, Applicant respectfully requests reconsideration of the rejections of the claims under 35 U.S.C. § 102(e) and 35 U.S.C. §103(a). The applied prior art does not teach or suggest the combination of features now recited in the independent claims. Specifically, the Abo et al. patent discloses an information service device for communicating information with a host device. The device includes a "present position detection unit 25" to calculate "the coordinates of a present position of the vehicle based on signals from a GPS (Global Position System) sensor, a gyro, a vehicle speed sensor and the like."³ The coordinates of the present location are stored and compared to location data to compute distances between the present location and the location of area centers.⁴

¹ "A patent issuing on an application with respect to which a requirement for restriction under this section has been made ... shall not be used as a reference ... against a divisional application." See also MPEP 804.01.

² See MPEP 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."

³ The Abo et al patent at column 3, lines 40-45.

⁴ The Abo et al patent at column 3, lines 59-67.

The Abo et al. patent, however, fails to disclose the claimed means for/step of capturing information, *including at least time information*, as recited in Applicant's independent Claims 1, 4, 5, 12, 73, 82, 84, 86, 88 and 90. Therefore, the applied prior art fails to teach or suggest every feature recited in Applicant's claims. Furthermore, there is no evidence of record for any motivation to modify the Abo et al. device to arrive at Applicant's claimed invention. In particular, there is no evidence of motivation to replace Abo et al.'s "present *position* detection unit 25" with a means for capturing *time information*, nor is there evidence of motivation to store time information and acquire information on the basis of this stored time information. A person of ordinary skill in the art would not have been motivated to perform such modification because such modification would completely change the basic principle of operation of the Abo et al. device. Therefore, Claims 1-5, 12-14, 50, 52, 73-74, 82, 84, 86, 88-91 and 102-117 are believed to be patentably distinct over the cited prior art. Accordingly, Applicant respectfully requests reconsideration of the outstanding rejections based on the Abo et al. patent.

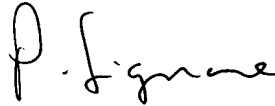
Finally, Applicant respectfully submits that none of the cited prior art disclose or suggest the combinations of features recited in new dependent Claims 102-117. In particular, the Abo et al. patent fails to disclose a step of/means for capturing music, as recited in Claims 103 and 109. The Abo et al. patent fails to disclose a capture means that includes a *microphone*, as recited in Claims 104 and 110. Therefore, Claims 102-117 are further believed to be patentably distinct over the cited prior art.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-5, 12-14, 50, 52, 56-57, 64-65, 73-74, 82, 84, 86, 88-91 and 102-117 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

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